

REMARKS

In lieu of an appeal brief, please consider the following remarks and the accompanying RCE.

Reconsideration of the application is respectfully requested, in view of the following remarks.

The present invention concerns in claim 1 a spread which includes olive oil but with no perceivable olive oil odor and which contains at least 10 ppm olive oil-originating polyphenols. In claim 11 the spread incorporates olive oil which has no perceivable olive oil odor, contains at least 10 ppm olive oil originating polyphenols and is obtained by refining at from 120-150°C. The Office points to no teaching in the prior art that an olive oil containing spread having significant amounts of the beneficial polyphenols, but which is free of perceivable olive oil odor, can be attained.

It is submitted that the Office uses proscribed hindsight when it argues that to select an olive oil with less olive oil odor would have been an obvious way of preparing a spread which tastes more like butter than olive oil. It is submitted that this concept emanates from the Office rather than flowing from the references. The invention is directed to a spread which both does not contain perceptible olive oil odors and which has the desirable polyphenols. The Office points to no teaching by the art that this was possible.

A reference which teaches olive oil spreads does not mean that such spreads will not have an olive oil odor. The fact that olive oils can be deodorized does not mean that they still retained their desirable polyphenols. The fact that olive oil can be debittered

does not suggest that an olive oil-containing spread with no perceptible olive oil odor and at least 10 ppm polyphenols can be obtained.

If the Office is asserting that use of Lai Ganguli's olive oil in a spread would result in a spread with no perceivable odor, it would be appreciated if it would explain why. If use of Lai Ganguli in a spread would not result in a spread with no perceivable olive oil odor, it would be appreciated if the Office could explain how Lai Ganguli helps render the invention unpatentable since the invention combines an olive oil spread with lack of perceptible olive oil odor. It is submitted that the Office uses hindsight in its attempt to devise applicants' invention after the fact. The refining temperature of claim 11 helps further define the invention by setting forth how such compositions can be obtained.

If the Office is to continue the rejection it would be appreciated if it could elaborate on the significance of applicants' not being required to use the deodorizing process of Chen (statement in the final rejection). This comment is not understood.

In view of the foregoing, it is respectfully requested that the application be allowed.

Respectfully submitted,



Gerard J. McGowan, Jr.
Attorney for Applicant(s)
Reg. No. 29,412

/gjm
(201) 894-2297